

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

TRANSFERRING OUTBOUND SINGLE-PIECE
FIRST-CLASS MAIL INTERNATIONAL PACKAGES
AND ROLLS

DOCKET No. MC2012-44

**UNITED STATES POSTAL SERVICE NOTICE OF FILING
LIBRARY REFERENCE USPS-LR-MC2012-44/NP2
AND APPLICATION FOR NON-PUBLIC TREATMENT**
(August 10, 2012)

The Postal Service files the material indicated below in this proceeding as a
Category 2 Library Reference:

USPS-LR-MC2012-44/NP2	Market Research Regarding Outbound Single-Piece First-Class Mail International [Non-Public]
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This library reference contains market research regarding the competitive nature of First-Class Mail International Packages and Rolls. The Postal Service regards the market research contained in the library reference, procured by the Postal Service, to be commercially-sensitive and proprietary information that should not be released into the public domain.

Accordingly, the Postal Service is providing USPS Library Reference MC2012-44/NP2 as a non-public library reference.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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August 10, 2012

**APPLICATION OF THE UNITED STATES POSTAL SERVICE
FOR NON-PUBLIC TREATMENT OF MATERIALS**

(August 10, 2012)

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) applies for non-public treatment of certain materials filed under seal with the Commission. Library Reference USPS-LR-MC2012-44/NP2 includes sensitive market research and market share information.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as nonpublic consist of information that has been developed by a private research firm and procured by the Postal Service. The materials are therefore proprietary to the Postal Service. Further, the materials contain information regarding the volumes, revenues, and market share for products offered by the Postal Service and its competitors, as well as customer behavior regarding both Postal Service and competitor products.

The data constitute information of a commercial nature which under good business practice would not be publicly disclosed. It is the view of the Postal Service that the information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and (5), and 5 U.S.C. § 552(b)(3) and (4). Because the materials that the Postal Service applies to file under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials qualify as exempt from public disclosure and grant its

¹ PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, PRC Docket No. RM2008-1 (June 19, 2009).

application for their non-public treatment.

(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

None.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

The materials examine the parcel market and provide data in terms of volume, growth, revenue, and percentage of market share for the Postal Service and its competitors. Additionally, the materials include information regarding customer behavior with respect to Postal Service products and comparable competitor products. The Postal Service maintains that these materials should remain confidential.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

Disclosure of the information pertaining to Postal Service customer behavior, including volume-related information, could provide insight to Postal Service competitors who seek to attract the business of those same customers. Postal Service competitors could use such information to position their products in such a way as to compete unfairly against the Postal Service. Further, competitors able to view the market research materials would gain specific insight into Postal Service customer behavior and the broader market share information, enabling them to capture the benefit of market research in which the Postal Service has invested without any need to procure their own market research.

The Postal Service considers it highly probable that, if this information were

made public, the Postal Service's competitors and customers would take immediate advantage of it. Such information is of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. §§ 552(b)(2,-3).²

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Public disclosure of the customer behavior and volume information in the library reference would be used by competitors of the Postal Service to the detriment of the Postal Service.

Hypothetical: A competitor's representative obtains access to data in Library Reference USPS-LR-MC2012-44/NP2. It analyzes the data to roughly assess the nature and scale of the Postal Service's First-Class Mail International market in which that competitor operates or seeks to operate. Based upon these data, the competitor assesses the extent to which it wishes to adjust its product offerings, prices, operations and marketing activities to compete for the volume represented by these data and to take advantage of the customer behavior information disclosed in the library reference. The competitor then can tailor marketing and/or pricing campaigns to acquire customers' business with the consequent loss of volume, revenue, and market share to the Postal Service

² In certain circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

Additionally, that competitor is able to gain valuable market intelligence without having to make an investment in research while the Postal Service bears the burden of procuring the research.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the data should be withheld from any person who has not agreed to the Commission's standard confidentiality requirements, including any person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information, including competitors and foreign postal operators. The Postal Service further maintains that actual or potential customers of the Postal Service for these or similar products should not be provided access to the nonpublic materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

The Postal Service considers this Application sufficient to fulfill the Postal Service's obligations to justify its determination that this library reference should be treated as non-public.

Conclusion

For the reasons discussed, the Postal Service requests that the Commission grant this application for non-public treatment of the identified material.